

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

725 EATERY CORP., etc., *et ano.*, :
Plaintiffs, :

- against -

THE CITY OF NEW YORK, et al., :
Defendants. :

-----X

59 MURRAY ENTERPRISES INC., etc., *et al.*, :
Plaintiffs, :

- against -

THE CITY OF NEW YORK, et al., :
Defendants. :

-----X

CLUB AT 60TH STREET, INC., etc., *et al.*, :
Plaintiffs, :

- against -

THE CITY OF NEW YORK, :
Defendant. :

-----X

336 LLC., etc., *et al.*, :
Plaintiffs, :

- against -

THE CITY OF NEW YORK, :
Defendant. :

-----X

Civil Action No.
02 CV 4431 (WHP)

Civil Action No.
02 CV 4432 (WHP)

Civil Action No.
02 CV 8333 (WHP)

Civil Action No.
18 CV 3732 (WHP)

**NOTICE OF FILING OF PLAINTIFFS' JOINT REPLY APPENDIX (Vol. III of
IV) IN SUPPORT OF PLAINTIFFS' REPLY TO DEFENDANT'S RESPONSE TO
PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

PLEASE TAKE NOTICE, that Plaintiffs hereby file following Joint Reply Appendix (Vol. III of IV) in support of their pending Motion for Preliminary Injunction in the above-captioned actions.

Dated: New York, New York
March 15, 2019

Respectfully,

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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725 EATERY CORP., etc., *et ano.*, :
Plaintiffs, :

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Civil Action No.
02 CV 4431 (WHP)

THE CITY OF NEW YORK, et al., :
Defendants. :

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59 MURRAY ENTERPRISES INC., etc., *et al.*, :
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- against -

Civil Action No.
02 CV 4432 (WHP)

THE CITY OF NEW YORK, et al., :
Defendants. :

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CLUB AT 60TH STREET, INC., etc., *et al.*, :
Plaintiffs, :

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Civil Action No.
02 CV 8333 (WHP)

THE CITY OF NEW YORK, :
Defendant. :

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336 LLC., etc., *et al.*, :
Plaintiffs, :

- against -

Civil Action No.
18 CV 3732 (WHP)

THE CITY OF NEW YORK, :
Defendant. :

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**PLAINTIFFS' JOINT REPLY APPENDIX (Vol. III of IV)
IN SUPPORT OF PLAINTIFFS' REPLY TO DEFENDANT'S RESPONSE TO
PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

PLAINTIFFS' JOINT REPLY APPENDIX
Vol. III of IV
(pp. 2005-2023)

Per the Court's Order of November 7, 2018, Plaintiffs in each of the four above-entitled actions hereby submit their unitary Joint Reply Appendix consisting exclusively of evidentiary documents upon which some or all of the Plaintiffs may choose to rely in their Reply to Defendant's Response to Plaintiffs' Motion for Preliminary Injunction. The inclusion of documents in this Joint Reply Appendix does not automatically signify an endorsement or promotion of any of these documents by any individual Plaintiff or group of Plaintiffs. That will depend on specific adoption of any of these documents by any Plaintiffs or Group of Plaintiffs in documents they may file with the Court.

The reference below to the "Club Plaintiffs" refers to all the Plaintiffs in Action Nos. 02 CV 4431, 02 CV 4432 and 02 CV 8333. The reference below to the "Bookstore Plaintiffs" refers to all the Plaintiffs in Action No. 18 CV 3732.

TABLE OF CONTENTS

<u>Tab No.</u>	<u>Description of Document</u>	<u>Joint Reply Appendix Starting Page #</u>
	<u>DOCUMENTS SUBMITTED BY CLUB PLAINTIFFS</u>	
	<u>Vol. I of IV (pp. 1882-1981)</u>	
A	Club Plaintiffs' First Supplemental Request to Take Judicial Notice	1882

	<i>Exhibit 2-A: Resolution 0208-1998, approving Text Amendment N 980135 ZRY (“1998 Amendments”), as published in Vol. I of Proceedings of the Council of the City of New York for the period January 7, 1998 to June 24, 1998</i>	1891
	<i>Exhibit 3-A :Resolution 2096-2001, approving Text Amendment N 010508 ZRY (“2001 Amendments”), as signed by the Clerk of the City of New York</i>	1914
	<i>Exhibit 4-A: Portions of NYC Council Resolution 586-2004 amending, AZR 32-01 & 42-01 regarding adult businesses (“2004 Amendments”), as published in Vol. II, Part I, of Proceedings of the Council of the City of New York for the period July 21, 2004 to December 15, 2004</i>	1933
	<i>Exhibit 5-A: Portions of NYC Council Resolution 0499-2010 amending, AZR 32-01 & 42-01 regarding adult businesses) (“2010 Amendments”), as published in Vol. II, Part I, of Proceedings of the Council of the City of New York for the period July 29, 2010 to December 20, 2010</i>	1941
	<i>Exhibit 82: Excerpts from NYAC Title 28, Chapter 1, Subchapter 1, Article 101 (entitled “General”)</i>	1950
	<i>Exhibit 83: Excerpts from NYAC Title 28, Chapter 1, Subchapter 1, Article 102 (entitled “Applicability”)</i>	1952
	<i>Exhibit 84: Excerpts from NYAC Title 28, Chapter 1, Subchapter 1, Article 104 (entitled “Construction Documents”)</i>	1954
	<i>Exhibit 85: Excerpts from NYAC Title 28, Chapter 1, Subchapter 1, Article 105 (entitled “Permits”)</i>	1960
	<i>Exhibit 86: Excerpts from NYAC Title 28, Chapter 1, Subchapter 1, Article 116 (entitled “Inspections and Signoff of Completed Work”)</i>	1966
	<i>Exhibit 87: Excerpts from NYAC Title 28, Chapter 1, Subchapter 1, Article 117 (entitled “Places of Assembly”)</i>	1968
	<i>Exhibit 88: Excerpts from NYAC Title 28, Chapter 1, Subchapter 1, Article 118 (entitled “Certificates of Occupancy”)</i>	1970
B	Reply Declaration of Michael Berzak Re: Permitting Issues Presented in Plaintiffs’ Motion for Preliminary Injunction	1974

C	Declaration of G. Randall Garrou Re Source of City's NYCAC Provisions Utilized by Plaintiffs	1978
	<u>Vol. II of IV</u> (pp. 1982-2004)	
D	Reply Declaration of Michael Berzak Re: Adult Business Sites in Support of Plaintiffs' Motion for Preliminary Injunction – Part One	1982
	<u>Vol. III of IV</u> (pp. 2005-2023)	
D	Reply Declaration of Michael Berzak Re: Adult Business Sites in Support of Plaintiffs' Motion for Preliminary Injunction – Part Two	2005
	<u>Vol. IV of IV</u> (pp. 2024-2098)	
D	Reply Declaration of Michael Berzak Re: Adult Business Sites in Support of Plaintiffs' Motion for Preliminary Injunction – Part Three	2024
	<i>Exhibit 1K(Amended): Map Showing Maximum Number and Location of Manhattan Relocation Areas</i>	2030
	<i>Exhibit 89: New York Times Article</i>	2032
	<u>DOCUMENTS SUBMITTED BY BOOKSTORE PLAINTIFFS</u>	
E	Reply Declaration of Dr. Elliott D. Sclar	2039

Dated: New York, New York
March 15, 2019

Respectfully submitted,

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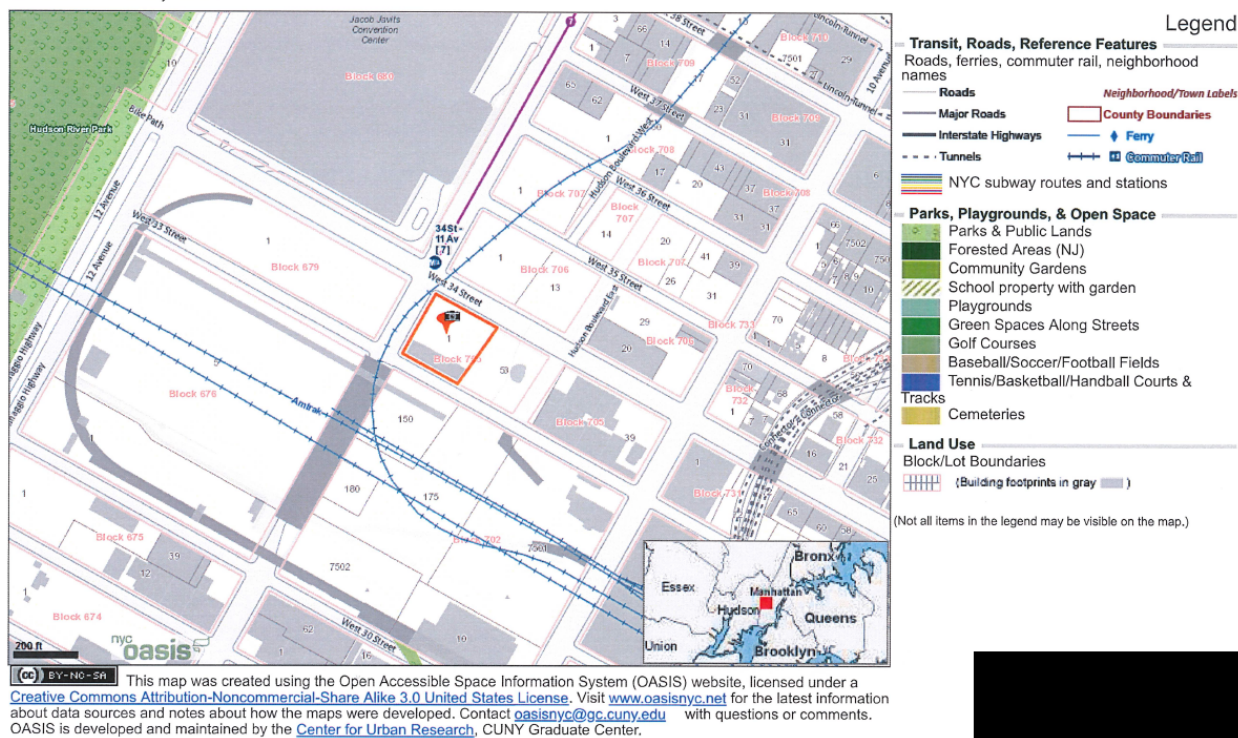
By: s/Erica T. Dubno
Erica T. Dubno

(7) Block 705, Lot 1 (City's Count # 23), 380 11th Avenue:



LOOKING WEST

Block: 705, Lot: 1



(8) **Block 706, Lot 1 (City's Count # 24), 400 11th Avenue.** This lot was shown as white on the 1995 City Map and thus was not legally permissible at that time. It was subsequently rezoned to C6-4 so it is now in a legally permissible zone. It is within the Hudson Yards Development. However, only a tiny *portion* of it (at the extreme southwest corner) is legally permissible for any adult use due to its proximity to a C6-2 district contiguous to and immediately north of it. This lot is presently under construction and is largely a huge excavation hole in the ground. There will be no occupiable premises for at least two years, and the signs at the construction site state that occupancy will not commence until December of 2021. Consequently, it is presently encumbered and/or otherwise unavailable for any commercial use. Once built, there will be a high-rise office building with limited commercial space, but it will not be commercially feasible for any adult use. This lot should be excluded because it is fully encumbered and/or otherwise unavailable for any commercial use today and also because there is no realistic likelihood it will be available for any adult use.

I show directly below selected photos of this lot, including both those which I took personally and one obtained from Google Earth, as well as a localized map showing both where this lot is located and the boundaries of this lot in a red border as an overlay to the map.

(8) Block 706, Lot 1 (City's Count # 24), 400 11th Avenue:



LOOKING NORTH



LOOKING SOUTH

(8) Block 706, Lot 1 (City's Count # 24), 400 11th Avenue:

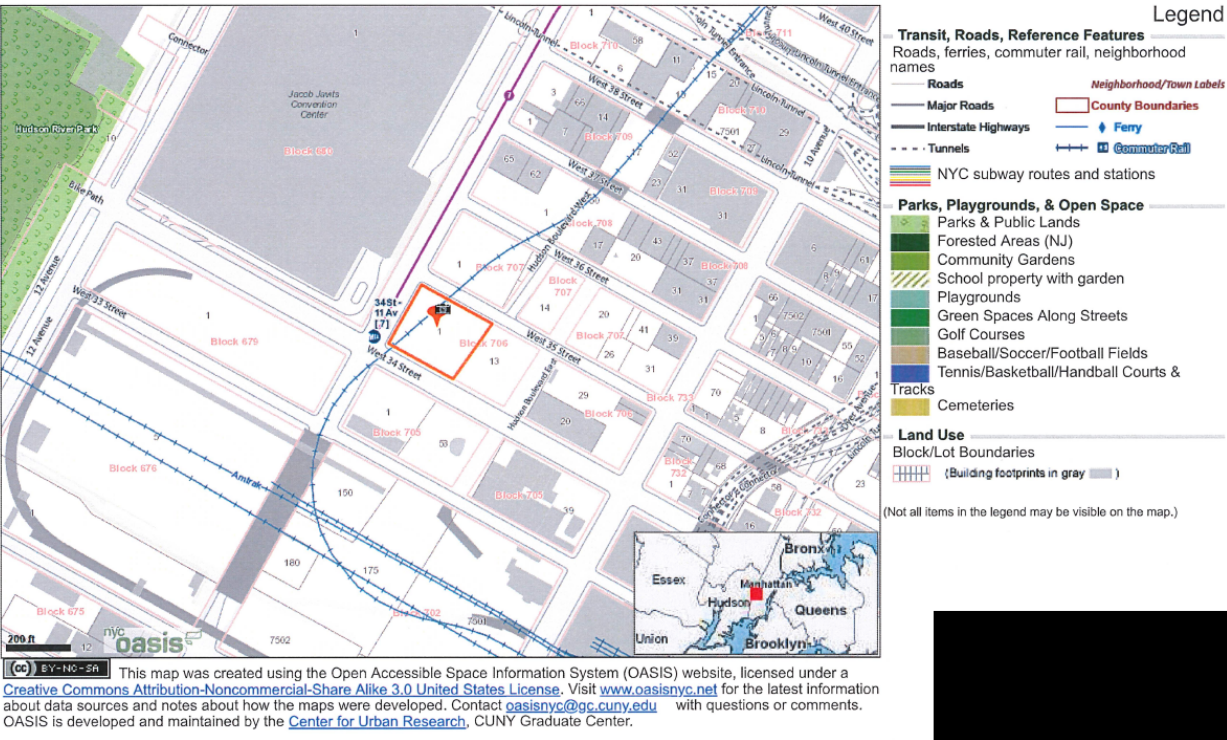


LOOKING EAST



(8) Block 706, Lot 1 (City’s Count # 24), 400 11th Avenue:

Block: 706, Lot: 1



(9) **Block 1094, Lot 11 (City's Count # 35), 638 West 47th Street.** The City identified this lot as legally permissible in its 1995 Map. It remains in a legally permissible zone today. However, the entirety of the lot is within 500 feet of the site of the now-closed Esquire Gentlemen's Club, an adult site at 622 W. 47th St. which, though not currently presenting adult entertainment, has a certificate of occupancy allowing adult use (the Esquire site is shown as "adult" on my prior map "1-I"). Apart from its disqualification due to proximity to an adult use, this lot will not be available to any new commercial use whatsoever for 3 to 4 years because the property, currently occupied by a car wash taking up the entirety of the lot, has been purchased by an owner-user which intends to build its own new building on the lot. It will not be commercially available to anyone for 3 to 4 years. This lot is legally impermissible in its entirety for an adult business due to its proximity to the Esquire location. However, it should also be excluded because it will be unavailable for any commercial use for at least 3-4 years.

I show directly below selected photos of this lot, including both those which I took personally and one obtained from Google Earth, as well as a localized map showing both where this lot is located and the boundaries of this lot in a red border as an overlay to the map.

(9) Block 1094, Lot 11 (City's Count # 35), 638 West 47th Street:

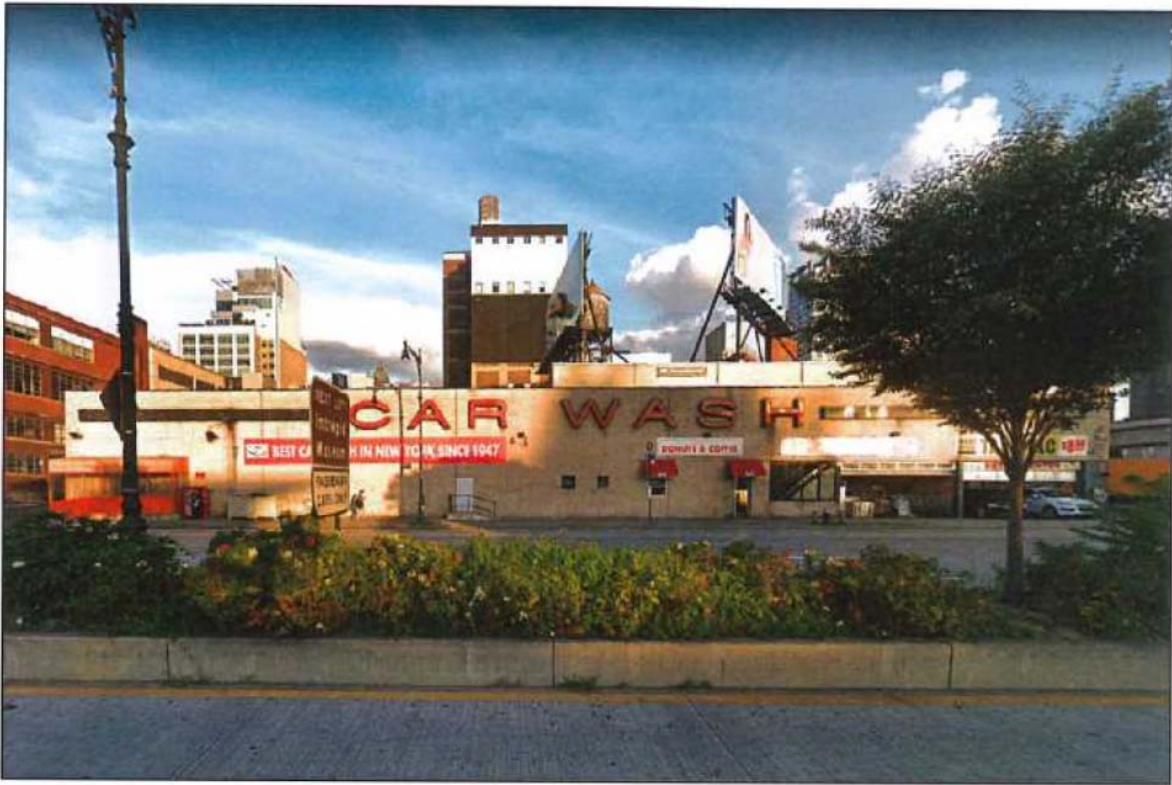


LOOKING NORTH



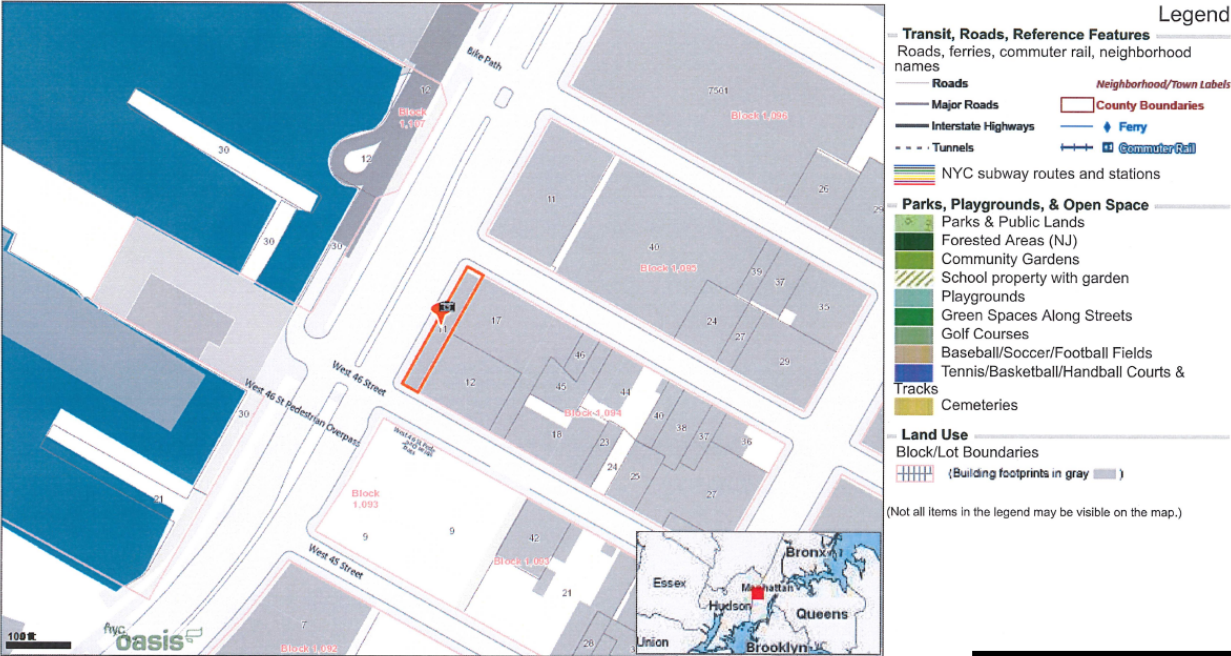
LOOKING SOUTH

(9) Block 1094, Lot 11 (City’s Count # 35), 638 West 47th Street:



LOOKING EAST

Block: 1094, Lot: 11

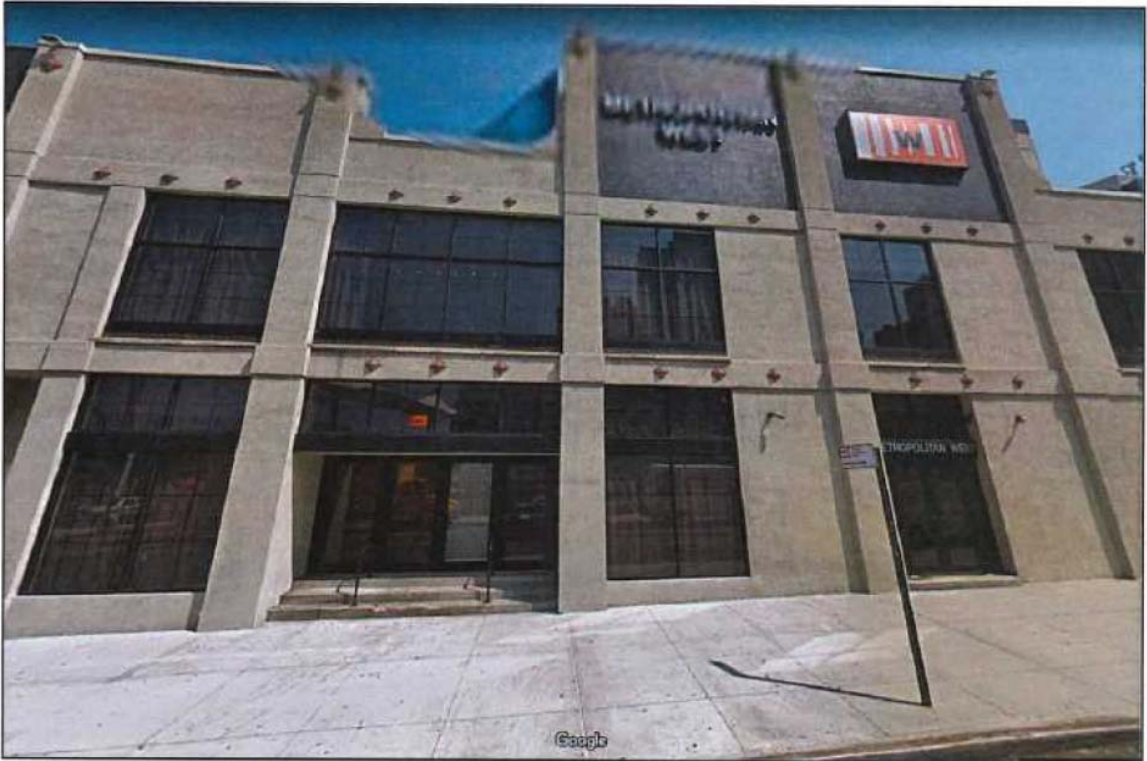


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(10) **Block 1094, Lot 12 (City's Count # 36), 639 West 46th Street.** The City identified this lot as legally permissible on its 1995 Map. It remains in a legally permissible zone today. However, the entirety of the lot is within 500 feet of the site of the now-closed Esquire Gentlemen's Club, an adult site at 622 W. 47th St. which, though not currently presenting adult entertainment, has a certificate of occupancy allowing adult use (the Esquire site is shown as "adult" on my prior map "1-I"). If the Esquire location were deemed *not* to be a disqualifying adult entertainment site for surrounding new businesses, approximately 78% of the 125 feet of lot frontage (where the doors would be) would be indisputably disqualified for adult use occupation because it is within 500 feet of a residential zone. In my opinion, but for its proximity to the Esquire location, it would be potentially commercially viable for an adult live entertainment use since the front doors to such a business could be located in the 28 feet of the lot frontage which is not within 500' of the nearby residential zone. This lot should be excluded as legally impermissible in its entirety due to its proximity to the Esquire adult location but would be otherwise potentially commercially viable for a new adult business.

I show directly below selected photos of this lot, including both those which I took personally and one obtained from Google Earth, as well as a localized map showing both where this lot is located and the boundaries of this lot in a red border as an overlay to the map.

(10) Block 1094, Lot 12 (City's Count # 36), 639 West 46th Street:



LOOKING NORTH



LOOKING NORTH

(10) Block 1094, Lot 12 (City's Count # 36), 639 West 46th Street:



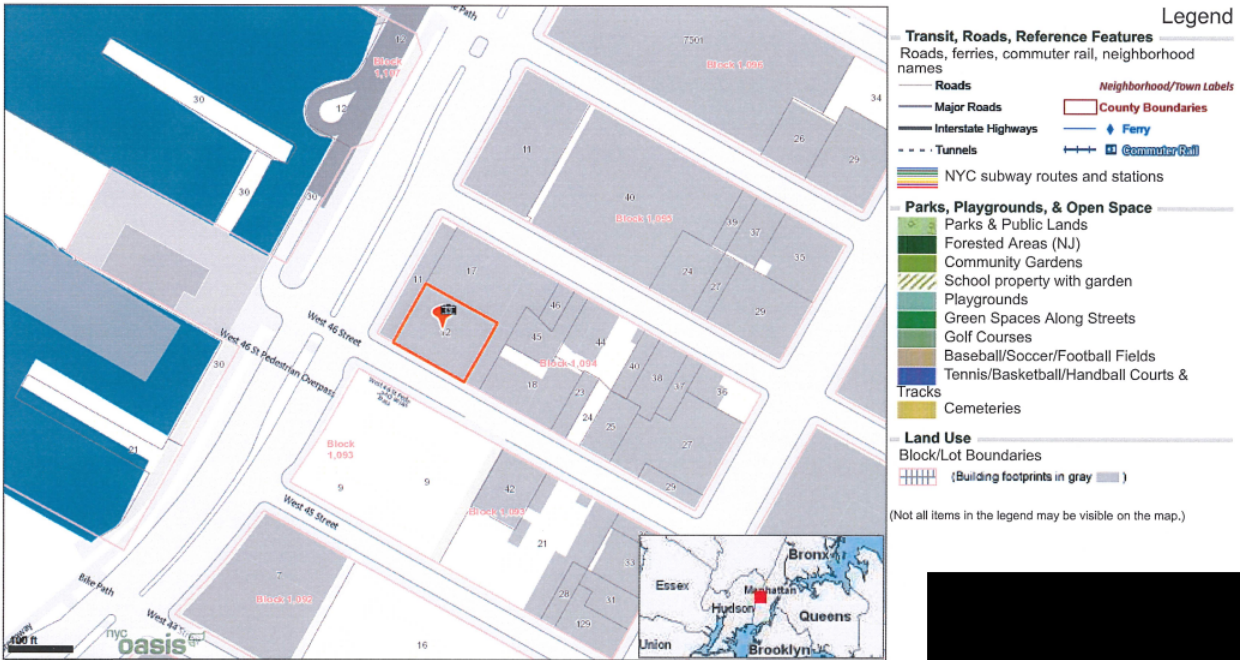
LOOKING EAST



LOOKING WEST

(10) Block 1094, Lot 12 (City's Count # 36), 639 West 46th Street:

Block: 1094, Lot: 12

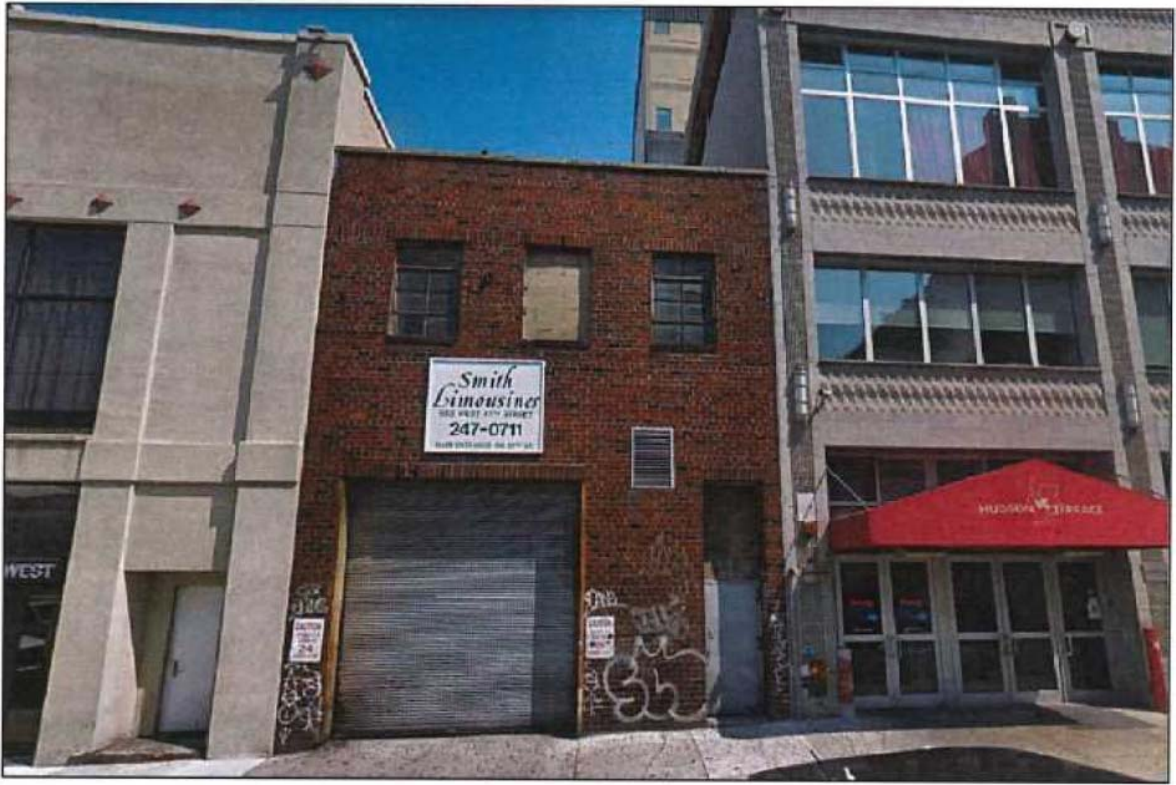


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(11) **Block 1094, Lot 17 (City's Count # 37), 629 West 46th Street.** The City identified this lot as legally permissible on its 1995 Map. It remains in a legally permissible zone today. However, the entirety of the lot is within 500 feet of the site of the now-closed Esquire Gentlemen's Club, an adult site at 622 W. 47th St. which, though not currently presenting adult entertainment, has a certificate of occupancy allowing adult use (the Esquire site is shown as "adult" on my prior map "1-I"). However, even if the Esquire location were *not* deemed to be a disqualifying adult entertainment site for surrounding new businesses, approximately 50% of the lot would independently be disqualified by proximity to a residential zone. Finally, this lot is also presently encumbered and/or will otherwise be unavailable for any commercial use for at least several years because the entirety of this lot was recently purchased by an end-user for construction of an eight-story building which will not even commence for another year. The building will not be open for occupancy for at least four years. This lot is legally impermissible in its entirety due to its proximity to the Esquire location. However, if the Esquire location is not deemed to be a disqualifying adult entertainment site for nearby new adult businesses, the lot should be excluded because it will be unavailable to any commercial use for at least four years.

I show directly below selected photos of this lot, including both those which I took personally and one obtained from Google Earth, as well as a localized map showing both where this lot is located and the boundaries of this lot in a red border as an overlay to the map.

(11) Block 1094, Lot 17 (City's Count # 37), 629 West 46th Street:

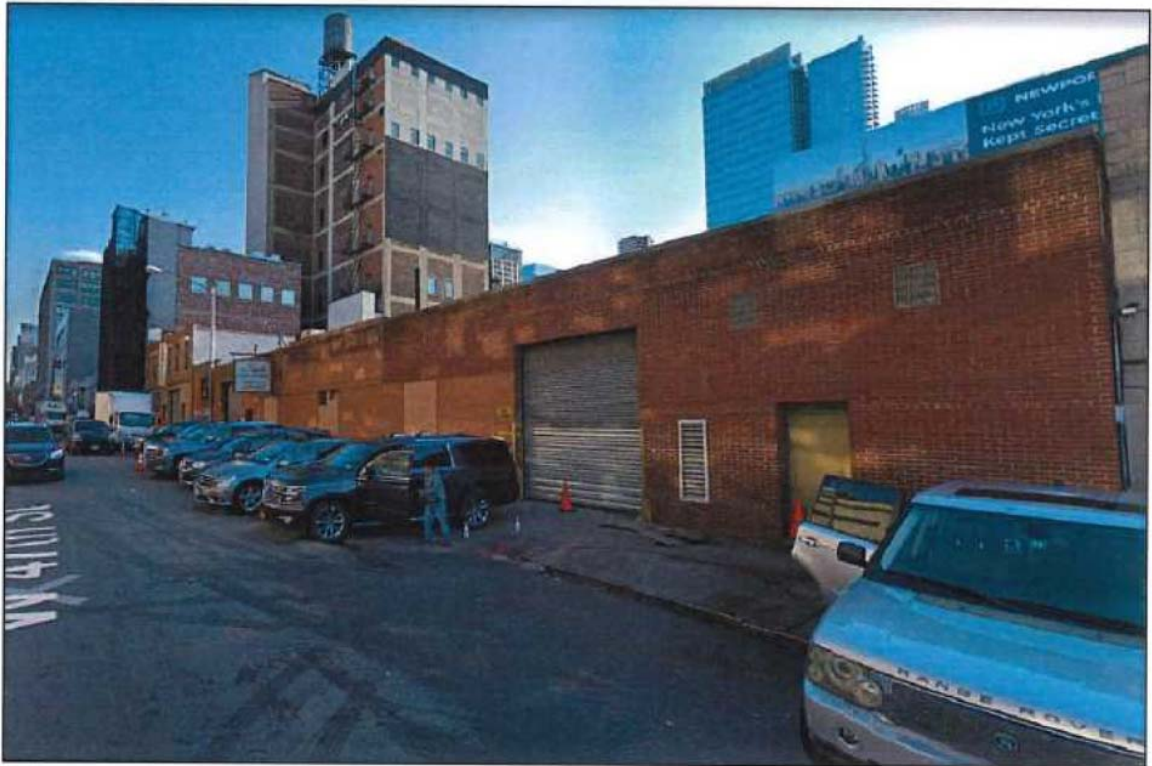


LOOKING NORTH

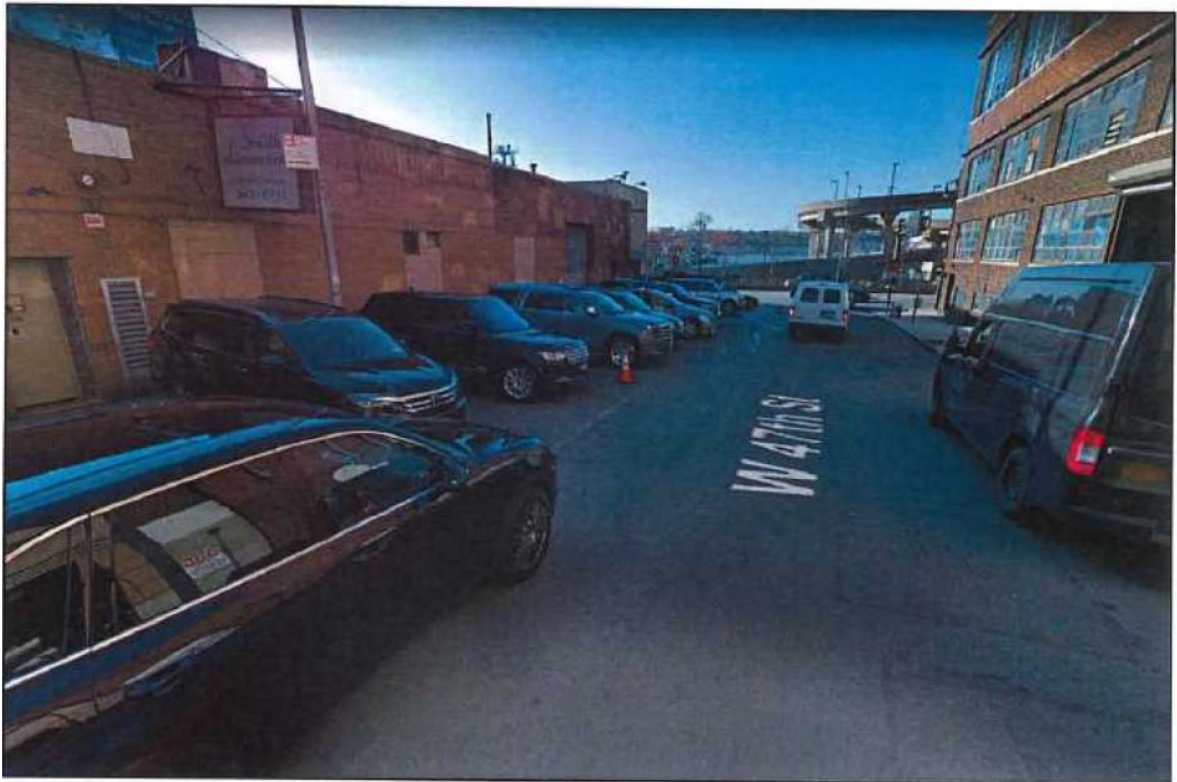


LOOKING SOUTH

(11) Block 1094, Lot 17 (City's Count # 37), 629 West 46th Street:



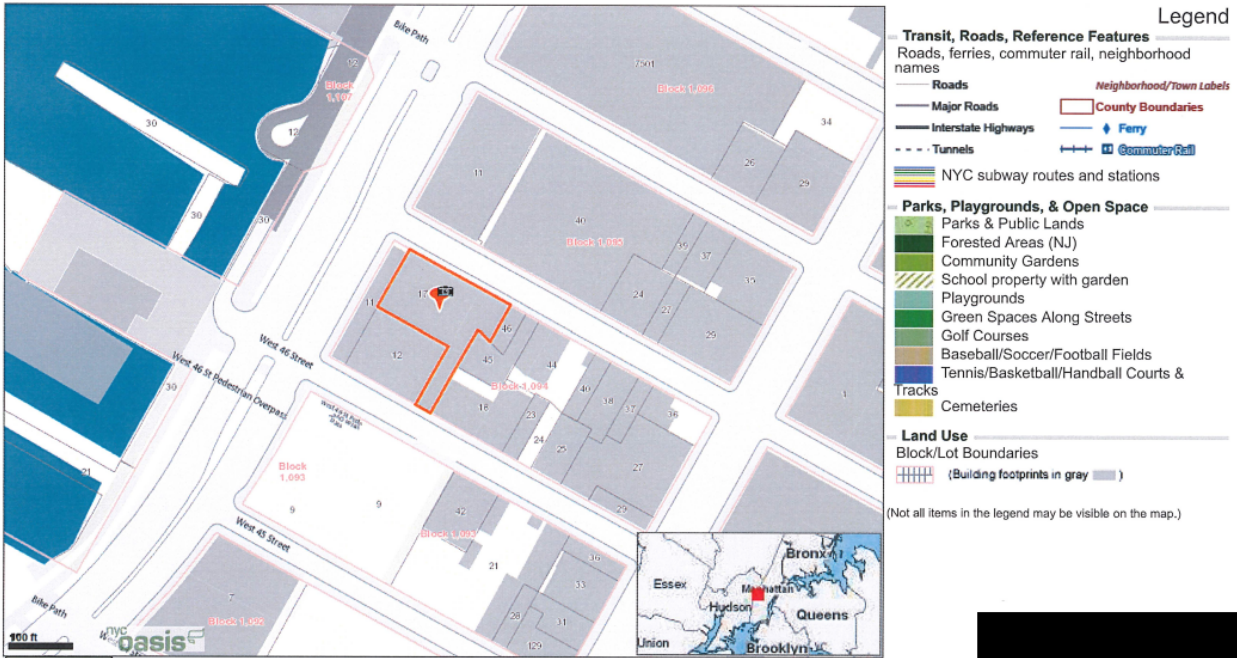
LOOKING EAST



LOOKING WEST

(11) Block 1094, Lot 17 (City's Count # 37), 629 West 46th Street:

Block: 1094, Lot: 17



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(12) **Block 1095, Lot 11 (City's Count # 38), 620 Joe DiMaggio Highway.**

The City identified this lot as legally permissible on its 1995 Map. It remains in a legally permissible zone today. However, the entirety of the lot is within 500 feet of the site of the now-closed Esquire Gentlemen's Club, an adult site at 622 W. 47th St. which, though not currently presenting adult entertainment, has a certificate of occupancy allowing adult use (the Esquire site is shown as "adult" on my prior map "1-I"). This lot is legally impermissible in its entirety due to its proximity to the Esquire location. If the Esquire location is *not* deemed to be a disqualifying adult entertainment site for nearby new adult businesses, then this location would be both presently legally permissible and, theoretically, commercially viable for an adult use.

I show directly below selected photos of this lot, including both those which I took personally and one obtained from Google Earth, as well as a localized map showing both where this lot is located and the boundaries of this lot in a red border as an overlay to the map.

(12) Block 1095, Lot 11 (City's Count # 38), 620 Joe DiMaggio Highway:



LOOKING NORTH



LOOKING SOUTH

(12) Block 1095, Lot 11 (City's Count # 38), 620 Joe DiMaggio Highway:



LOOKING SOUTH



LOOKING EAST